

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

United States of America

v.

Crim. No. 06-cr-134-01-SM

Ellsworth Gottlieb

O R D E R

The defendant requests the appointment of counsel for the purpose of filing a motion to reduce his sentence based upon a pending amendment to the Federal Sentencing Guidelines regarding crack cocaine offenses (doc. no. 60). For the following reasons, the defendant's motion is denied at this time.

On June 30, 2011, the United States Sentencing Commission determined to give retroactive effect to the permanent guideline amendment regarding crack cocaine offenses (Parts A and C of Amendment 750). This amendment implemented the emergency directives in section 8 of the Fair Sentencing Act of 2010. Absent congressional action to the contrary, retroactivity of the guideline amendment becomes effective November 1, 2011, at which time reductions in sentences pursuant to 18 U.S.C. § 3582(c)(2) based on the retroactive application of the crack cocaine amendment will be authorized. It is yet to be determined, however, whether Congress will take action on the proposed guideline amendment.

The court is in the process of identifying persons sentenced in this district who would be potentially eligible to seek a reduced sentence under this amendment should it ultimately become law. Should this defendant's sentence be identified as potentially eligible for reduction

under the proposed guideline amendment, he will be notified and the court will appoint counsel to pursue a sentence reduction on his behalf. Additionally, because it appears that the defendant's earliest possible release date under the proposed amendment is the late summer of 2012, it is not necessary to give expedited treatment to his request for counsel.

Therefore, for the foregoing reasons, the defendant's motion for the appointment of counsel (doc. no. 60) is DENIED without prejudice at this time.

So ordered.

August 11, 2011

/s/ Daniel J. Lynch
Daniel J. Lynch
U.S. Magistrate Judge

cc: Ellsworth Gottlieb, pro se
Counsel of Record